

## Federal Acquisition Regulation

## 49.603-8

obligations under the contract are concluded, except as follows:

*[List reserved or excepted rights and liabilities. See 49.109-2 and 49.603-1(b)(7).]*

(End of agreement)

### 49.603-7 No-cost settlement agreement—partial termination.

*[Insert the following in Block 14 of SF 30 if a no-cost settlement agreement, under a partial termination, is to be executed.]*

(a) This supplemental agreement modifies the contract to reflect a no-cost settlement agreement with respect to the Notice of Termination dated .....

(b) The parties agree as follows:

(1) The terminated portion of the contract is as follows: *[Specify (i) item numbers, (ii) descriptions, (iii) quantity terminated, (iv) unit and total price of terminated items, and (v) any other explanation necessary to avoid uncertainty or misunderstanding.]*

(2) The Contractor unconditionally waives any charges against the Government arising under the terminated portion of the contract or by reason of its termination, including, without limitation, all obligations of the Government to make further payments or to carry out any further undertakings under the terminated portion of the contract. The Government acknowledges that the Contractor has no obligation to perform further work or services or to make further deliveries under the terminated portion of the contract. Nothing in this paragraph affects any other covenants, terms, or conditions of the contract. Under the terminated portion of the contract, the following rights and liabilities of the parties are reserved:

*[List reserved or excepted rights and liabilities. See 49.109-2 and 49.603-1(b)(7).]*

(End of agreement)

### 49.603-8 Fixed-price contracts—settlements with subcontractors only.

*[Insert the following in Block 14 of SF 30 for settlements of fixed-price contracts covering only settlements with subcontractors.]*

(a) This agreement settles that portion of the settlement proposal of the Contractor that is based upon termination of the following subcontracts entered into in performing this contract:

*[Insert a list of the terminated subcontracts included in this settlement.]*

(b) The parties agree to the following:

(1) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by the agreement, has furnished the Con-

tractor a certificate stating (i) that all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract, and (ii) that the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(2) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(3) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(4) The Contractor shall, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(5) The Government agrees to pay the Contractor or its assignee, upon presentation of a proper invoice or voucher, \$..... *[insert net amount of settlement]*, which, together with the amount of \$..... previously paid the Contractor as partial, progress, or advance payments, constitutes payment in full and complete settlement, except as provided in subparagraph (b)(6) below, of the amount due the Contractor for that portion of its settlement proposal that is based upon termination of the subcontracts listed above.

(6) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: *[List reserved or excepted rights and liabilities. See 49.109-2 and 49.603-1(b)(7).]*

(End of agreement)

#### 49.603-9 Settlement of reservations.

[Insert the following in Block 14 of SF 30 for settlement of reservations.]

(a) Supplemental Agreement No. \_\_\_\_\_, dated \_\_\_\_\_, was executed to reflect the settlement of the termination of this contract. The supplemental agreement excepted from the settlement certain items described in the agreement including the items described in paragraph (b) below. This supplemental agreement settles those items listed in paragraph (b) below.

(b) The parties agree to the following:

(1) The Government agrees to pay the Contractor \$ \_\_\_\_\_ for the following reserved or excepted items:\* [List items.]

(2) The Contractor releases and forever discharges the Government from all liability and from all existing and future claims and demands that it may have under this contract, insofar as it pertains to the contract, for the items described in subparagraph (1) above.\*

[\*When payment is due the Government, reverse the words Government and Contractor in subparagraphs (b)(1) and (b)(2).]

(End of agreement)

#### 49.604 Release of excess funds under terminated contracts.

The following format shall be used to recommend the release of excess funds under terminated contracts, except if the contracting office retains responsibility for settlement of the termination:

FROM: Termination Contracting Officer  
\_\_\_\_\_ [address]

TO: Contracting office \_\_\_\_\_ [address]

SUBJ: Terminated Contract No. \_\_\_\_ with  
\_\_\_\_\_ [Contractor]

Refs:

(a) [Cite termination notice and effective date.]

(b) [Cite prior letters releasing excess funds, if any.]

1. Referenced termination notice, \_\_\_\_\_ [insert "completely" or "partially"] terminated contract \_\_\_\_\_.

2. Based on the best information available, it is estimated that the gross settlement cost will be \$ \_\_\_\_\_. The amount available for release as excess to the contract is \$ \_\_\_\_\_. Any payments previously made to the Contractor for terminated items have been considered in arriving at the above amounts.

[If prior letters recommending release of excess funds are cited, use the following as paragraph 2:

"The estimated settlement costs previously reported by reference (b) in the amount of \$ \_\_\_\_\_ are revised. On the best evidence now available, it is estimated that the settlement costs will be \$ \_\_\_\_\_. The additional amount available for release is \$ \_\_\_\_\_".]

3. The related appropriations and amounts involved are:

Appropriations	Allocated Amounts
.....	.....
.....	.....

Copies to:

Paying Office

Accounting and Finance Office

Other

#### 49.605 Request to settle subcontractor settlement proposals.

Contractors requesting authority to settle subcontractor settlement proposals shall furnish applicable information from the list below and any additional information required by the contracting officer:

(a) Name of contractor and address of principal office.

(b) Name and location of divisions of the applicant's plant for which authorization is requested.

(c) An explanation of the necessity and justification for the authorization requested.

(d) A full description of the applicant's organization for handling terminations, including the names of the officials in charge of processing and settling proposals.

(e) The number and dollar amount (estimated if necessary) of uncompleted contracts with Government agencies and the percentage applicable to each agency.

(f) The number and dollar amount (estimated if necessary) of uncompleted subcontracts under Government contracts and the percentage applicable to each agency.

(g) The extent of the applicant's experience in termination matters, including the handling of proposals of subcontractors.

(h) The approximate amount and general nature of terminations of the applicant currently in process.

(i) A statement that no other application has been made for any division of the applicant's plant covered by the application or, if one has been made, a full statement of the facts.